

The Kansas Open Records Act

Kansas Sentencing Commission
05/11/2006



The KORA & Your Rights

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THE KANSAS OPEN RECORDS ACT

The Kansas Open Records Act (KORA) is a law that aids persons wishing to obtain access to public records. This law requires public agencies and other public bodies to make public records available for inspection and duplication without explanation at a reasonable cost. "Public record" generally means any recorded information, regardless of form or characteristics, which is made, maintained of kept or is in the possession of any public agency.



Under KORA, you have the right to:

- 1) Inspect and obtain copies of public records which are not exempted from disclosures by a specific law.
- 2) Obtain a copy of the agency's policies and procedures for access to records, and to request assistance from the agency's Freedom of Information Officer.
- 3) Receive a written response to your request within three business days.
 - a) The response may indicate that it will take additional time to produce the records. Reasons for this may include, voluminous records, complicated request parameters, unresolved legal issues or difficulty in accessing archived records.
 - b) The response may deny your request, in whole or in part. If the request is denied, the agency must identify generally the records to be denied, and the specific legal authority for the denial.
- 4) Bring a private law suit or file a complaint with the Attorney General's Office or the county or district attorney if you feel you are wrongfully denied records.

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To contact us:

700 SW Jackson, Suite 501
Topeka, KS 66603-3757
Phone: 785-296-0923
Fax: 785-296-0927
website: www.kansas.gov/ksc

The KS Sentencing Commission

THE KSC IS A PUBLIC AGENCY

The Kansas Sentencing Commission (KSC) is an executive agency responsible for administering the Kansas Sentencing Guidelines Act, K.S.A. 74-9101 *et. seq.* Among other duties and responsibilities, the KSC:

- Advises the legislature with reference to the implementation, management, monitoring, maintenance and operation of the sentencing guidelines system;
- Assists in the training of judges, county and district attorneys, defense counsel, court services officers, and others with the sentencing guidelines act;
- Receives presentence reports and journal entries for felony convictions to develop post-implementation monitoring procedures and reporting methods to evaluate guidelines sentences;
- Advises and consults with the Secretary of Corrections and members of the legislature in developing a mechanism to link guidelines sentence practices with correctional resources and policies;
- Makes recommendations relating to modifications to the sentencing guidelines;
- Prepares and submits fiscal impact and correctional resource statements for proposed legislation affecting changes in criminal laws;
- Makes recommendations to those responsible for developing a working philosophy of sentencing guideline consistency and rationality;
- And performs such other criminal justice studies or tasks as may be assigned.

The KSC publishes the *Kansas Sentencing Guidelines Desk Reference Manual* annually.

The KSC collects and compiles statistical information regarding felony sentences reported each fiscal year, tracks the number of felony sentences resulting in incarceration or probation, tracks the conformity of felony sentences to the sentencing guidelines, and provides annual inmate population projections. This information is published annually in a *Kansas Sentencing Commission Annual Report*.

The KSC also publishes the *Kansas Sentencing Guidelines Desk Reference Manual* annually. The *Desk Reference Manual* provides an annual legislative update of changes to the sentencing guidelines; changes to sentencing forms; contains instructions for judges, prosecutors, defense counsel and court services officers in implementing the sentencing guidelines, and also provides an annual case law update for Kansas appellate cases and Kansas Attorney General Opinions which significantly affect the sentencing guidelines.

These documents can be found on the Commission's website at <http://www.kansas.gov/ksc>. Printed copies of these documents, in very limited quantities, are also available upon request to those directly involved in the criminal justice field.

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Public Agencies are subject to the Kansas Open Records Act.

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YOUR RESPONSIBILITIES/RECORD AVAILABILITY

YOUR RESPONSIBILITIES

- 1) You must request records—written, photographic or computerized. The KORA does not require an agency to answer questions, or prepare reports.
- 2) An agency may require you to put your request in writing, and you must provide proof of your identity, if requested.
- 3) Reasonable fees, not exceeding actual cost, may be charged for access to records, copies of records, and staff time for processing your request.

WHAT RECORDS ARE AVAILABLE?

Most records maintained by public entities are open for public inspection and copying. Records commonly requested include, but are not limited to;

- Statutes,
- Regulations,
- Policies,
- Minute/Records of open meetings,
- Salaries of public officials,
- Agency budget documents.

WHAT RECORDS ARE NOT AVAILABLE?

The KORA recognizes that certain records contain private or privileged information. The Act lists several exceptions, including but not limited to;

- Personnel information of public employees,
- Medical treatment records,
- Records protected by the attorney-client privilege,
- Records closed by the rules of evidence,
- Records containing personal information compiled for Census purposes,
- Notes and preliminary drafts,
- Criminal investigation records,
- Several other specific types of records as outlined.

A list of additional exemptions can be found in K.S.A. 2005 Supp. 45-221.

Note: An agency is only required to provide public records that already exist. There is no requirement for the agency to create a public record upon request.

**Certain
exemptions
may be
found in
K.S.A. 45-
221.**

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Certain records shall be made
available for public review!

KSC KORA Policies & Requirements



POLICIES & REQUIREMENTS

Office Hours: K.S.C. office hours are 8 a.m. to 5 p.m. Monday through Friday, excluding official state holidays.

Written Request: The agency may require that any request for access or copies be in writing so as to adequately document the request, clarify exactly what records are sought and to determine the requester's right to access. Such written request shall state the requester's name and address, information necessary to ascertain the records to which the requester desires access and the requester's right to access.

For public records which are not confidential or may not be discretionarily closed pursuant to K.S.A. 2005 Supp. 45-221, or other law, it will be sufficient to state "Kansas open records act, K.S.A. 45-215 *et. seq.*," as the requester's right to access. Identification records sought must be as specific as possible to aid in identifying the record sought.

Requests will be honored for documents in existence at the time of the request. Documents may not be requested prospectively. Optionally, to aid in contacting the requester, a daytime telephone number should be provided.

Response Time: In general, an agency has three business days within which to respond to a KORA request. The K.S.C. will act on requests as soon as possible; however, if it appears it will take some time to provide records or notification of fees is required, a response will be provided within three business days of receipt of the request, estimating fees and providing further information regarding the agency's ability and plans to provide the requested records.

KORA does not require the KSC to answer questions or prepare reports, but only to provide public records that already exist.

Persons may request access to or copies of public records!

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Requesting Records & Authorized Fees



Agencies may charge fees for providing records.

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REQUESTING A RECORD

- 1) Consult with the agency's Freedom of Information Officer to determine if the record you need exists or is available.
- 2) Be ready to provide a specific description of the record you seek.
- 3) If asked to submit your request in writing, make it as specific as possible to expedite the process.
- 4) Most records will be produced within three business days from the time the request is received.
- 5) If the request is delayed or denied, you will receive a written explanation for the delay or denial within those three business days.

**KSC
Freedom of
Information
Officer is
Staff
Attorney,
Natalie
Gibson.**

AUTHORIZED FEES

Fees shall be charged for providing access to, furnishing copies of and research of records. Inspection, copying and research charges, as allowed by K.S.A. 45-219, may be charged for the actual cost of staff time, research, and materials used. When the KSC is designated the official custodian of the public records, the agency has sole determination of the agency's ability to comply with the request for records in a specific electronic format or the ability to produce any special computer generated reports.

KSC will provide an estimate of fees to be charged prior to providing records, and where such estimate is provided, fees actually charged shall not exceed such estimate. KSC reserves the right to require any estimated charge for access to or copies of records be received before work is performed to produce the records in order to in-

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Copies of Records

The cost for copying is a per page charge and is assessed to cover the routine cost of reproducing records which are requested with specificity and are readily accessible within the possession and control of the agency.

\$.25

This charge does not include the cost of more than one quarter of an hour of research or access time needed to locate records which are not readily accessible, to determine what specific records meet the requested criteria, to segregate public from non-public information, to access records from archives or other similar services. Such charges are

Mail Charge

A mail charge may be assessed in addition to the copy charge when mail service is requested. A charge of \$.40 cents may be charged for the first 5 pages and an additional \$.25 cents may be charged for each additional 5 page increment when shipped via United States Postal Service (USPS) first class. Urgent, express, overnight, or similar deliver services may be provided when the requestor provides their billing num-

\$.40

\$.25

Faxed Copies

The cost to fax is a per page charge. This includes services required in copying a record in addition to all transmission costs. Records in excess of 10 pages will not ordinarily be provided by fax.

\$ 1.00

*Search Charge

The rate charged for research conducted by KSC staff is a per hour charge. This charge includes but is not limited staff time, processing time and time for providing copies of records in the requested format.

\$ 25.00

Upon request, the agency shall provide the requester an estimate of the charges that will be incurred for the time that will be required to provide

*Computer Time

The rate charged for computer time is a per hour charge. This charge includes staff time, including associated computer connect and processing time, for providing copies of records in available electronic format or for production of special computer-generated reports.

\$ 100.00

When the KSC is designated the official custodian of the public records, the agency has sole determination of the agency's ability to comply with the request for records in a specific electronic format or the ability to

* Hourly charges are billed by the quarter hour.

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